



Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939,

Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2014-015-C.

Petitioner: Luminant Mining Company, P.O. Box 1359, Tatum, Texas 75691.

Mine: Liberty Strip Mine, MSHA I.D. No. 41-04964, located in Rusk County, Texas.

Regulation Affected: 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance when the boom/mast is raised or lowered during necessary repairs. The petitioner states that:

(1) Some stages of assembly/disassembly of draglines require special consideration when the boom/mast is raising/lowering into position.

(2) The boom is raised/lowered utilizing the on-board motor generator sets. This process is critical because during this time, power to the machine, as much as possible, must not be interrupted. Power loss may result in the boom becoming uncontrolled and falling, and could injure workers. To address this condition, the petitioner proposes to use the following guidelines to help prevent loss of power to the machine. This procedure only addresses raising/lowering the boom of draglines utilizing the machine's electrical onboard motor generator sets. It does not replace other mechanical precautions or the requirements of 30 CFR 77.405(b) that are necessary to safely secure booms/masts during construction or maintenance procedures.

(3) The operator/contractor will develop and implement written procedures that will:

(a) Limit the number of persons needed on board the machine during the boom/mast raising/lowering. Only those persons critical to performing necessary functions will be permitted on board the machine.

(b) Explain the methods to be used to prevent off-board persons from contacting the frame cable of the machine. The area around the machine will be roped off or guarded.

(c) Prohibit other work activities in close proximity to the machine during the boom/mast operation.

(d) Establish a responsible person(s) at the work site who is familiar with all the requirements and is able to communicate at all times with the qualified person(s) at the substation. The responsible person(s) must remain at the work site during the boom/mast raising/lowering.

(e) Ensure that all persons involved with the boom/mast raising/lowering are familiar with the safety precautions.

(4) An MSHA-qualified electrician will complete an examination of all electrical components that will be energized during the boom raising/lowering process. The examination will be done within 2 hours prior to the boom raising/lowering process. A record of the examination will be made available for review. The machine will be deenergized to perform this examination.

(5) After the examination has been completed, electrical components necessary to complete the boom raising/lowering process will be energized to assure they are operating properly as determined by the MSHA-qualified electrician.

(6) The ground fault and ground check circuits may be disabled provided:

(a) The internal ground conductor of the trailing cable has been tested and is continuous from the frame of the dragline to the grounding resistor located at the substation. Utilizing the ground check circuit and disconnecting the pilot circuit and the machine frame and verifying the circuit breaker cannot be closed will be an acceptable test. Resistance measurements can also be used to assure the ground conductor is continuous. The grounding resistor will be tested to assure it is properly connected and is not open or shorted;

(b) Normal short circuit protection will be provided at all times. The overcurrent relay setting may be increased up to 100% above its normal setting.

(7) During the boom raising/lowering procedure an MSHA-qualified electrician(s) will be positioned at the substation and dedicated to monitoring the grounding circuit. The qualified person(s) will be able to detect a grounded phase condition, or an open ground conductor, without being exposed to shock hazards. The person(s) at the substation will at all times maintain communications with a responsible person at the dragline. If a grounded phase condition, or an open ground wire, should occur during the process, the person at the substation will notify the responsible person at the dragline. All persons on board the machine must be aware of the condition and must remain on board the machine. The boom will be controlled and the electrical circuit deenergized until the condition is corrected. The ground fault and ground check circuits will be reinstalled prior to reenergizing and testing. Once the circuits have been tested and no adverse conditions are present, the boom raising/lowering procedure may be resumed.

(8) During the boom raising/lowering procedure, persons are not permitted to get on/off the dragline while the ground check and ground fault circuits are disabled unless the circuit to the dragline is de-energized, locked and tagged out as verified by the qualified person at the substation.

(9) After the boom raising/lowering is completed the responsible person at the dragline will notify the qualified person(s) at the substation. The qualified person(s) will deenergize the circuit and restore the protective relays to their normal setting. Prior to reenergizing the circuit for normal operation, the circuit and its protective relays will be tested and examined as described in 30 CFR 77.800-1. The ground check will be tested by opening the ground check circuit at the machine to verify the circuit breaker cannot be closed. A record of the test and examination will be recorded as described in 30 CFR 77.800-1. Following completion of the test and examination, normal work can begin.

(10) Luminant will ensure that during the boom/mast raising/lowering all requirements listed in 30 CFR are complied with, except as explained above. It is paramount that the requirements for lock/tag out are followed, including grounding when required.

The petitioner asserts that the proposed alternative method will not result in a diminution of safety to the miners.

Docket Number: M-2014-016-C.

Petitioner: Cliffs Natural Resources, Inc., Cliffs Logan County Coal, LLC, P.O. Box 446, Man, West Virginia 25635.

Mine: Saunders Preparation Plant, MSHA I.D. No. 46-02140, located in Logan County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests an amendment to its previously granted petition for modification, docket number M-2009-049-C, to seal a total of 18 abandoned mine portals within the limits of the North Fork Coal Refuse Facility, I.D. No. WV04-02140-01, in the Upper Winifrede and Buffalo Creek seams of coal. In the previous petition, the petitioner proposed to construct seals one through ten in portals associated with the Upper Winifrede Seam. Three of these seams, Numbers 8, 9, and 10, were proposed at the northernmost portal of the Buffalo Mining No. 8-C Mine.

The petitioner states that:

(1) When attempting to uncover entries Numbers 8, 9 and 10 to seal them, only two entries were found rather than the three proposed in the previous petition and approved in the Proposed Decision and Order (PDO).

(2) Excavation was done on either side of the two exposed entries to the extent that an additional opening should have been revealed if it had existed. The coal seam and overburden were still in place on what should have been the portal bench for the third entry. Instead of continuing in line with the exposed mine entries, the base of the highwall flared, or projected out toward the coal outcrop on both sides of the two entries. On this basis it can reasonably be concluded that there are only two mine entries at this site.

(3) The only discernible date on the 8-C mine map is 1972, presumably at the time of mine closure. While it is currently common practice, as mandated by law, to open at least three entries at a portal site, this was not a requirement at the time portal Mine No. 8-C was established.

(4) It is evident that it was erroneously concluded that there were three entries at this portal when the petition for modification was being prepared for submittal. A close examination of the 8-C mine map reveals that only two of the entries at the portal are shown to be open.

(5) The locations of the two openings, along with the existing highwall, were recently verified by field survey. In view of these findings the petitioner is requesting that entry No. 8 be deleted from the PDO.

(6) Drainage will be provided for entry No. 10 as originally proposed, but the drain will be directed to the outlet near the left groin ditch at elevation 2078± rather than in the center underdrain since that is now covered with 125 to 130 feet of refuse.

The petitioner asserts that the alternative method provides the same degree of safety as the existing standard.

Docket Number: M-2014-017-C.

Petitioner: AK Coal Resources, Inc., 1134 Stoystown Rd., Friedens, Pennsylvania 15541.

Mine: North Fork Mine, MSHA I.D. No. 36-10041, located in Somerset County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), (18.35(a)(5)(i) (Portable (trailing) cables and cords)).

Modification Request: The petitioner requests a modification of the existing standard to increase the cable length of the cables supplying power to four Fletcher Roof Ranger II Roof Bolters. Utilization voltage for these machines is 480 volts, three-phase alternating current. The petitioner states that:

(1) The maximum length of the 480-volt trailing cables will be 1,000 feet.

(2) The trailing cables for the Roof Bolters will not be smaller than No. 2 American Wire Gauge (AWG) cable.

(3) All circuit breakers used to protect the No. 2 AWG trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 727 amperes at 10 percent guaranteed tolerance. The trip settings of these circuit breakers will be sealed to insure the trip setting cannot be changed, and these breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the No. 2 AWG cables.

(4) Replacement breakers and/or instantaneous trip units, used to protect the No. 2 AWG trailing cables will be calibrated to trip at 727 amperes at 10 percent guaranteed tolerance, and this setting will be sealed.

(5) All components that provide short-circuit protection will have sufficient interruption rating in accordance with the maximum calculated fault currents available.

(6) During each production day, the No. 2 AWG trailing cables and the circuit breakers will be examined in accordance with all 30 CFR provisions.

(7) Permanent warning labels will be installed and maintained on the loads center identifying the location of each short-circuit protective device. These labels will warn miners not to change or alter the settings of these devices.

(8) If the affected trailing cables are damaged during the shift, the cable will be deenergized and repairs will be made.

(9) The proposed alternative method will not be implemented until all miners who have been designated to operate the Roof Ranger II, or other persons designated to

examine the trailing cables or trip settings on the circuit breakers, have received proper training.

(10) Within 60 days after this proposed decision and order becomes final, the proposed revisions for the petitioner's approved 30 CFR part 48 training plan will be submitted to the District Manager. The training plan will include the following:

- (i) The hazards of setting the short-circuit interrupting device(s) too high to adequately protect the trailing cables;
- (ii) How to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained;
- (iii) The mining methods and operating procedures that will protect the trailing cables against damage; and
- (iv) The proper procedures for examining the trailing cables to ensure that the cables are in safe operating condition by visual inspection of the entire cable, observing the insulation, the integrity of the splices, nicks and abrasions.

The petitioner further states that procedures specified in 30 CFR 48.3 for proposed revisions to approved training plans will apply.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection for all miners afforded by the existing standard.

Docket Number: M-2014-003-M.

Petitioner: Southwest Energy LLC, 950 17th Street, Suite 2600, Denver, Colorado 80202.

Mines: Bald Mountain Mine, MSHA I.D. No. 26-01842, located in White Pine County, Nevada; Freeport-McMoRan Morenci Inc. Mine, MSHA I.D. No. 02-00024, located in Greenlee County, Arizona; Freeport-McMoRan Bagdad Inc., MSHA I.D. No. 02-00137,

located in Yavapai County, Arizona; Freeport-McMoRan Sierrita, Inc., MSHA I.D. No. 02-00144, located in Pima County, Arizona; Thompson Creek Mine, MSHA I.D. No. 10-00531, located in Custer County, Idaho; Carlin Mine, MSHA I.D. No. 26-00062, located in Eureka County, Nevada; Phoenix Mine, MSHA I.D. No. 26-00550, located in Lander County, Nevada; Barrick Cortez Inc., MSHA I.D. No. 26-00827, located in Lander County, Nevada; Goldstrike Mine, MSHA I.D. No. 26-01089, located in Eureka County, Nevada; Robinson Operation, MSHA I.D. No. 26-01916, located in White Pine County, Nevada; Twin Creeks Mine, MSHA I.D. No. 26-01942, located in Humboldt County, Nevada; Florida Canyon Mine, MSHA I.D. No. 26-01947, located in Pershing County, Nevada; Ruby Hill Mine, MSHA I.D. No. 26-02307, located in Eureka County, Nevada; Tyrone Mine, MSHA I.D. No. 29-00159, located in Grant County, New Mexico; Chino Mines Co Mine, MSHA I.D. No. 29-00708, located in Grant County, New Mexico; Freeport McMoRan Miami Inc., MSHA I.D. No. 02-00112, located in Gila County, Arizona; Marigold Mine, MSHA I.D. No. 26-02081, located in Humboldt County, Nevada; and Carlota Copper Company, MSHA I.D. No. 02-02653, located in Gila County, Arizona.

Regulation Affected: 30 CFR 56.6801 (Vehicle repair).

Modification Request: The petitioner requests a modification of the existing standard to permit routine repair and maintenance work to be performed on its bulk trucks in its own specialized Southwest Energy shops at the Bald Mountain Mine and at the other mines for which Southwest Energy works, because application of the existing standard will result in a diminution of safety to the miners. The petitioner states that:

(1) The Bald Mountain mine has been in operation since 1984 during which time it has been inspected by MSHA at least twice per year. For the past 40 years Southwest Energy has routinely parked bulk equipment in company garage facilities at the Mine to address climate, security, and safety issues that may arise from working outdoors. Prior to July 2013, only one citation asserting that § 56.6801 applied to the parking of bulk equipment in the Southwest Energy shops for maintenance and repair has ever been upheld. Section 56.6801 specifically applies to vehicles containing both explosive material and oxidizers. The standard provides that vehicles containing explosive material and oxidizers should not be taken into a garage or shop, and is worded in such a manner that acknowledges the likelihood of a dangerous condition occurring only in the presence of both of these elements. According to the standard, where both explosive materials and oxidizers are present on a vehicle, that vehicle should not be taken into a repair garage or shop at any time.

(2) While Southwest Energy routinely takes steps to ensure that mixed blasting agents, un-sensitized emulsion, ammonium nitrate/fuel oil (ANFO), or any combination of these are not present in their bulk trucks when they are taken into shops, it is not always possible to ensure that trace amounts of blasting agents are not present in spite of those efforts. Additionally, it is possible, although not common, that a mechanical condition that is best addressed in the shop will arise in such a way as to preclude trying to empty all remnants of blasting agents from the augers before it can be repaired. It is situations like these that Southwest Energy seeks a modification of the standard.

(3) It is clear that the purpose of § 56.6801 is to keep potentially explosive material out of an environment where open flames or sparks are likely to occur.

Southwest Energy's established practice is to both empty and thoroughly wash the bulk trucks of all ingredients before any hot work is performed on the equipment. Southwest Energy has issued a "Hot Work Program" which details exactly how to clean and inspect all trucks prior to any repairs or maintenance.

(4) Attempting to perform repairs on bulk trucks outdoors creates a host of hazards. Although it is required that a job hazard assessment be performed prior to each hot work job or task, there are many hazardous conditions that arise outside of Southwest Energy's control, primarily exposure to climate. Working in an open area exposes the miner to dust, wind, rain, excessive cold and heat and any number of conditions that increase the chance of an accident.

(5) Southwest Energy has shops in areas that experience both extremely cold and hot temperatures, and to perform work outdoors is of the utmost concern in terms of safety. The problem of climate conditions is further aggravated by the fact that it is not always possible to create a smooth level surface on which to work when not inside of a structurally safe environment. If the ground is not level it becomes extremely difficult to set jacks or even outriggers to provide a level working surface for the job under consideration. Jack slippage on uneven or rough terrain presents multiple hazards not the least of which is the chance that a load would fall off of its support and on the miners. The work being performed often involves lifting heavy tools or components, the risk of trips, slips, falls, sprains, strains and perhaps even broken bones rises.

(6) Southwest Energy has made every effort to never expose a bulk truck holding blasting agents to open flames or sparks. Still, the need to repair the equipment in question cannot be avoided. The danger of sparks and open flames to those performing

maintenance presents different issues in terms of minimizing these risks, but that does not justify subjecting maintenance personnel to a wide range of conditions that greatly increases their chances of being injured or killed.

(7) Working within the company shops will provide miners with the ability to perform necessary work absent the standards' literal mandate that present a far more dangerous scenario.

(8) Southwest Energy proposes to use the specific procedures listed below for compliance with the proposed alternative method for this petition:

(a) All highly explosive materials and oxidizers will be removed to the greatest extent possible from vehicles prior to entering the Southwest Energy shops.

(b) No hot work or open flames will be permitted within 50 feet of a vehicle containing blasting materials/agents.

(c) Any vehicles entering a bay to conduct hot work (grinding), welding, or cutting with an open flame will be emptied of all explosives, including blasting materials/agents, and washed prior to entry.

(d) A flashing light will be installed on top of the shop and on each bulk truck to warn anyone approaching that a truck used in the blasting process is in the bay.

(e) A rope or gate with a warning sign will be extended across shop entrances when trucks used in the blasting process are in bays for repair or maintenance.

(f) The number of persons working in the shops will be limited to the minimum required to conduct repair work or perform maintenance.

(g) All welders, grinders, torches and tools used for welding and cutting will be placed in a cage inside of the bay and will be locked during maintenance or repairs.

Individuals may review a complete description of the procedures the petitioner proposes to use for this petition at the MSHA address listed in this notice.

The petitioner asserts that the proposed alternative method will provide at least the same measure of safety as the existing standard.

Dated: May 16, 2014.

Sheila McConnell
Acting Director
Office of Standards, Regulations and Variances

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